

REMARKS

Claims 1, 2, 7 to 11, 22, 24 to 28, 32 to 47 and 60 to 62 are currently pending in the application. Claims 1, 2, 7 to 11, 22, 24 to 28, 32 to 47 and 60 to 62 are rejected. By this amendment, Applicants have amended claims 1, 28 and 38 and have cancelled claims 11, 34 and 44 without prejudice. All of the amendments find full support in the specification and drawings as filed. No new matter has been added. In view of the above amendments and the following remarks, Applicants respectfully submit that this application is in condition for allowance. Accordingly, reconsideration and a timely indication of allowance are respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 1, 2, 7, 10, 11, 22, 24, 25, 28, 33 to 55, 60 and 61 are rejected under 35 USC §102(b) as being anticipated by Goldberg et al. (U.S. Patent No. 5,152,777). Applicants respectfully traverse this rejection.

The present invention is directed to an apparatus for anchoring a tubular member within a passageway formed in a mammalian body, the passageway having a wall with an inner surface. The apparatus comprises a tubular element comprising a hollow tubular outer lumen having a proximal end and a distal end; a deployment element positioned within the outer lumen and slidable with respect to the outer lumen, the deployment element comprising a hollow tubular inner lumen with a wall having an inner surface. Two resilient anchoring members are attached to the inner lumen. Each anchoring member is reversibly moveable by the deployment element between the first position and the second position. In the first position

at least a portion of each anchoring member is retracted within the outer lumen. In the second position, at least a portion of each anchoring member is deployed exteriorly to the outer lumen, so as to engage the inner surface of the mammalian passageway and anchor the deployment element in the passageway.

Each of independent claims 1, 28, and 38 have been amended to have the limitation “only two resilient anchoring members.” These amendments find full support in the specification as filed, for example, on page 15, lines 10 to 12. In particular, an apparatus with only two anchoring members is preferred because it is easier to manufacture. No new matter has been added by these amendments.

Goldberg et al. is directed to a blood vessel filter (trap) delivery system. There is nothing in Goldberg et al. that addresses the problem of how to anchor a catheter at a specific location within a passageway of a mammalian patient. Goldberg et al. does not teach or suggest a system having only two anchoring members. Specifically, Goldberg et al. teaches a trap for insertion into a blood vessel, the trap having “from three arms to a number far in excess of six arms.” See, col. 6, lines 46-48). Accordingly, Goldberg fails to anticipate claims 1, 28 and 38.

Additionally, it would not be obvious to modify the teachings of Goldberg to arrive at a device having only two anchoring members. Goldberg et al. is directed to a blood vessel filter delivery system, not an apparatus for anchoring a tubular member within a passageway formed in a mammalian body. It is not clear that two arms would adequately hold a filter in a passageway formed in a mammalian body. That is why Goldberg et al. teaches away from a

device with only two arms and specifies from three arms to a number far in excess of six arms, with six arms being preferred.

Accordingly, Applicants respectfully submit that claims 1, 28 and 38 are patentable over Goldberg et al. Claims 2, 7, 10, 11, 22, 24, and 25 depend from claim 1 and by definition contain all of the limitations of claim 1. Claims 33, 35 to 37, 60, and 61 depend from claim 28 and by definition contain all of the limitations of claim 28. Claims 39 to 43, and 45 to 55 depend from claim 38 and by definition contain all of the limitations of claim 38. Accordingly, claims 2, 7, 10, 11, 22, 24, 25, 28, 33, 35 to 43, 45 to 55, 60 and 61 are patentable over Goldberg et al. for the reasons explained above with regard to claims 1, 28 and 38 as well as because of the additional limitations contained therein. Therefore, Applicants respectfully request that this rejection be withdrawn.

Claims 38 to 40, 44 and 45 are rejected under 35 U.S.C. §102(e) as being anticipated by Hayashi (U.S. Patent No. 5,910,144). Applicants respectfully traverse this rejection.

As explained above, claim 38, as amended, contains the limitation of “only two resilient anchoring members.” Hayashi fails to teach this limitation. Hayashi teaches a prosthesis gripping system for enabling the manipulation of a prosthesis deployed or implanted at a repair site. As is the case with the Goldberg et al. references, the Hayashi reference is not directed to the problem of how to anchor a catheter within the passageway of a mammalian patient. The elements 40 cited by the examiner as anchoring members are not intended to anchor the catheter 20 in a passageway, but rather to grip a prosthesis 34. Hayashi recites that “preferably there are six elements 40 for secure gripping of prosthesis end 32.” See, Col. 4,

lines 14-15. Accordingly, Hayashi fails to anticipate claim 38.

Additionally, it would not be obvious to modify the teachings of Hayashi to arrive at a device having only two anchoring members. Hayashi is directed to a prosthesis gripping system, not an apparatus for anchoring a tubular member within a passageway formed in a mammalian body. It is not clear that two arms would adequately grab a prosthesis and notable that Hayashi teaches a preferred embodiment of the prosthesis gripping system with six arms.

Accordingly, Applicants respectfully submit that claim 38 is patentable over Hayashi. Claims 39, 40, 44 and 45 depend from claim 38 and by definition contain all of the limitations of claim 38. Accordingly, claims 39, 40, 44 and 45 are also patentable over Hayashi for the reasons given above with regard to claim 38 as well as because of the additional limitations they contain. Therefore, Applicants respectfully request that this rejection be withdrawn.

Rejections Under 35 U.S.C. §103

Claims 8, 9, 26, 36 and 62 are rejected under 35 U.S.C. §103(a) as being unpatentable over Goldberg et al. in view of Abrams (U.S. Patent No. 5,492,119). Claim 27 is rejected under 37 U.S.C. §103(a) as allegedly being unpatentable over Goldberg et al. in view of Lefebvre (U.S. Patent No. 5,938,683). Claim 32 is rejected under 35 U.S.C. §103(a) as being unpatentable over Goldberg et al. in view of Hayashi in further view of Abrams. Claim 37 is rejected under 35 U.S.C. §103(a) as being unpatentable over Goldberg et al. in view of Hayashi in further view of Lefebvre. Claims 41 to 43 and 46 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hayashi in view of Abrams and Hayman et al. (U.S. Patent No. 5,267,960). Claim 47 is rejected under 35 U.S.C. §103(a) as being unpatentable over

Hayashi in view of Lefebvre. Applicants respectfully traverse all of these rejections.

As explained above, Goldberg et al., and Hayashi fail to teach the limitation of claims 1, 28 and 38 of “only two resilient anchoring members.” Applicants respectfully submit that none of the additional references cited in the 35 U.S.C. §103 rejections remedy the defects of both Goldberg et al. and Hayashi. As explained above, there would be no motivation to modify either Goldberg et al. or Hayashi to have “only two resilient anchoring members.” Accordingly, Applicants respectfully request that these rejections be withdrawn.

CONCLUSION

In view of the above amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Accordingly, reconsideration and a timely indication of allowance are respectfully requested. If the Examiner believes a telephone conference would aid in the prosecution of this application, then the Examiner is invited to contact the undersigned at the below-listed telephone number.

The Commissioner is authorized to charge \$120 for a month extension of time. No other fees are believed due with this amendment. If, however, any other fees are due, then the

Commissioner is authorized to charge any other fees associated with this amendment to
Deposit Account No. 19-2090.

Respectfully Submitted,

SHELDON & MAK PC

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